

**STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD**

DIVISION OF WATER RIGHTS

ORDER

Application 20312 Permit 13903 License 10840

**ORDER APPROVING CHANGE TO THE PLACE OF USE, THE PURPOSE OF
USE, AND AMENDING THE LICENSE**

WHEREAS:

1. License 10840 was issued to Bear Valley Company on August 22, 1978 and was recorded with the County Recorder of Alpine County on August 29, 1978.
2. License 10840 was subsequently assigned to Lake Alpine Water Company on June 25, 1984.
3. A petition for change to increase the place of use and to add snowmaking and municipal use to the purpose of use was filed with the State Water Resources Control Board (SWRCB) on October 6, 1993. The petition indicates the diversion season for snowmaking is from November 1 to March 1 of the succeeding year.
4. The SWRCB has determined that the petition for change does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
5. The license terms relating to the continuing authority and water quality objectives of the SWRCB should be updated to conform to Section 780, Title 23 of the California Code of Regulations.
6. Fish, wildlife, and plants species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A term should be placed in the license making the licensee aware of these obligations.
7. The diversion of water under this license and License 11007 (Application 21485) are taken from the same source and serves a common place of use, a maximum annual amount of water should be set.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Purpose of use under the License 10840 shall be amended to be:

Domestic, Municipal, and Snowmaking

2. The amount of water diverted under the license shall not exceed:

Seventy-five-thousandths (0.075) of a cubic foot per second to be diverted from January 1 to December 31 of each year. Diversion for snowmaking purpose shall occur from November 1 to March 1 of the succeeding year. The maximum amount diverted under this license shall not exceed 42 acre-feet per year.

The maximum annual amount of water diverted under this license and License 11007 (Application 21485) shall not exceed at 182 acre-feet per annum.

3. The description of the place of use where such water is put to beneficial use is as follows:

The Lake Alpine Water Company Service Boundary as shown on a amended map dated January 13, 1999 and on file with the SWRCB.

4. License 10840 is amended to include the following condition:

Licensee shall install and maintain devices satisfactory to the SWRCB to measure the instantaneous rate of diversion and cumulative quantity of water diverted under this license, and shall be able to differentiate the respective rates and quantities diverted for domestic/municipal use and for snowmaking. A record of such measurements shall be maintained by the licensee, and made available to interested persons upon reasonable request.

(00000R1)

5. The continuing authority condition shall be updated and read as follows:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this license with a

view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

6. The Water Quality objectives condition shall be updated and read as follows:

The quantity of water diverted under this license is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

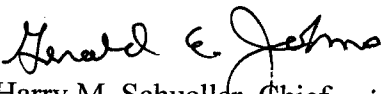
7. License 10840 is amended to include the following condition:

This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal

Endangered Species Act (16 U.S.C.A. sections 5131 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain an incidental take permit prior to operation. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

(0000014)

Dated: 11/5/99


for Harry M. Schueller, Chief
Division of Water Rights



STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

APPLICATION 20312

PERMIT 13903

LICENSE 10840

THIS IS TO CERTIFY, That

BEAR VALLEY COMPANY
P. O. BOX 8, BEAR VALLEY, CALIFORNIA 95223

(over)

HAS *made proof as of* JUNE 9, 1976 *(the date of inspection)*
to the satisfaction of the State Water Resources Control Board of a right to the use of the water of
UNNAMED SPRINGS IN ALPINE COUNTY

tributary to AN UNNAMED STREAM THENCE BLOODS CREEK THENCE NORTH FORK STANISLAUS RIVE
THENCE STANISLAUS RIVER

for the purpose of DOMESTIC USE
under Permit 13903 *of the Board and that the right to the use of this water has been perfected*
in accordance with the laws of California, the Regulations of the Board and the permit terms; that the
priority of this right dates from JULY 21, 1961 *and that the amount of water to which*
this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated
purposes and shall not exceed SEVENTY-FIVE THOUSANDTHS (0.075) CUBIC FOOT PER SECOND, T
DIVERTED FROM JANUARY 1 TO DECEMBER 31 OF EACH YEAR. THE MAXIMUM AMOUNT DIVERTE
UNDER THIS LICENSE SHALL NOT EXCEED 42 ACRE-Feet PER YEAR.

THE POINTS OF DIVERSION OF SUCH WATER ARE LOCATED:

- (1) NORTH 5° 35' WEST 3,465 FEET FROM E1/4 CORNER OF SECTION 12, T7N, R17E, MDB&M
BEING WITHIN SE1/4 OF SE1/4 OF PROJECTED SECTION 1, T7N, R17E, MDB&M, AND
- (2) SOUTH 1,100 FEET AND EAST 1,300 FEET FROM NE CORNER OF SECTION 12, T7N, R17E,
BEING WITHIN NW1/4 OF NW1/4 OF SECTION 7, T7N, R18E, MDB&M.

A DESCRIPTION OF LANDS OR THE PLACE WHERE
SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

WITHIN NW1/4 OF NW1/4, S1/2 OF NW1/4 AND SW1/4 OF SECTION 7; N1/2 OF NW1/4 OF
SECTION 18, T7N, R18E, MDB&M; AND NE1/4 OF SE1/4 OF SECTION 12, T7N, R17E, MDB&M

25-84 Ownership Chg to Lake Alpine Water Company

Licensee shall allow representatives of the Board and other parties, as may be authorized from time to time by the Board, reasonable access to project works to determine compliance with the terms of this license.

All rights and privileges under this license including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: AUGUST 22 1978

STATE WATER RESOURCES CONTROL BOARD

R. L. Roanberg
Chief, Division of Water Rights